



Federal Communications Commission
Washington, D.C. 20554

November 4, 2011

By Electronic Mail and USPS

Russell D. Lukas, Esq.
Lukas, Nace, Gutierrez
& Sachs, LLP
8300 Greensboro Drive
Suite 1200
McLean, VA 22102

Re: Request for Information from Cellular South, Inc. – WT Docket 11-65

Dear Mr. Lukas:

We are in receipt of your letters of June 14 and July 7, 2011, addressed, respectively, to Ms. Milkman and myself concerning your client's refusal to respond to the Wireless Telecommunications Bureau's Request for Information, dated June 6, 2011, in the above-captioned docket ("Request for Information"). The June 14 letter makes reference to your client's Petition to Deny filed on May 31, 2011, in which your client makes various claims concerning the Commission's authority to designate the proceeding "permit-but-disclose" and its use of protective orders. The letter of July 7 raises an additional objection that the Commission's right to request information is curtailed or restricted by the process set forth in section 309 of the Communications Act of 1934, as amended (the "Act") for filing petitions to deny.

As you are aware, you have raised these issues on at least three occasions in similar contexts. Each time, either the Commission or the Wireless Telecommunications Bureau, as appropriate, has rejected your client's contentions.¹ In not one of these three occasions did your client apply for a Review or Reconsideration of the relevant decision.

In your July 7 letter, you assert that the Commission is attempting to conduct pre-hearing discovery which you allege is impermissible as not being in accordance with the statutory scheme set forth in section 309 of the Act. You explain that the petition to deny process under section 309 of the Act in some way trumps or restricts the Commission's authority under other sections of the Act to request information. We reject this claim. To the contrary, the Commission has the full right and authority to (i) request information from its licensees under section 4(i) of the Act, (ii) conduct proceedings as it sees fit

¹ See *Cellco Partnership d/b/a Verizon Wireless and AT&T Inc. Seek FCC Consent To Assign or Transfer Control of Licenses and Authorizations and Request a Declaratory Ruling on Foreign Ownership*, WT Docket No. 09-121, *Memorandum Opinion & Order*, 25 FCC Rcd. 10985, ¶¶ 85-90 (2010); *Applications of AT&T Inc. and Cellco Partnership d/b/a Verizon Wireless For Consent To Assign or Transfer Control of Licenses and Authorizations and Modify a Spectrum Leasing Arrangement*, *Memorandum Opinion and Order*, 25 FCC Rcd. 8704, ¶¶ 154-159 (2010); *Applications of AT&T Inc. and Centennial Communications Corp. For Consent to Transfer Control of Licenses, Authorizations, and Spectrum Leasing Arrangements*, WT Docket No. 08-246, *Memorandum Opinion and Order*, 24 FCC Rcd 13915, ¶¶ 153-157 (2009).

pursuant to section 4(j) of the Act, and (iii) make such inquiries as it sees fit, at any time, pursuant to section 403 of the Act.²

In complying with the Commission's procedural requirements in this proceeding, your client will retain its rights as the filer of a petition to deny under section 309 of the Act. Further, your client's response to the Request for Information will not be taken as a waiver of your client's statutory or procedural arguments.

Accordingly, your client is now required to answer the Request for Information, dated June 6, 2011, within the next 10 days.

Sincerely,



Rick Kaplan
Chief, Wireless Telecommunications Bureau

² 47 U.S.C. §§ 154(i), 154(j), and 403. *See generally FCC v. Schreiber*, 381 U.S. 279 (1965).